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November 8, 2004

Ex Parte

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-B204
Washington, DC 20554

Re: ***AT&T Corp. Petition for Declaratory Ruling Regarding
Enhanced Prepaid Card Services, WC Docket No. 03-133***

Dear Ms. Dortch:

AT&T Corp. ("AT&T") submits this *ex parte* in the above-captioned proceeding to rebut baseless claims made by SBC, BellSouth and Sprint concerning AT&T's offering of enhanced prepaid card services ("EPPC") to the U.S. military.¹

AT&T, the Department of Defense and others have previously demonstrated the vital importance of maintaining EPPC's status as an interstate information service.²

¹ Letter from Paul K. Mancini (SBC) to Michael K. Powell, dated July 30, 2004 ("SBC Letter"); Letter from Richard Juhnke (Sprint) to Marlene H. Dortch (FCC), dated August 2, 2004 ("Sprint Letter"); Letter from Glenn T. Reynolds (BellSouth) to Marlene H. Dortch (FCC), dated August 5, 2004 ("BellSouth Letter").

² See, e.g., Letter from Judy Sello to Ms. Marlene H. Dortch, dated October 12, 2004; Letter from David Lawson to Ms. Marlene H. Dortch, dated July 13, 2004; Letter from Amy L. Alvarez to Ms. Marlene H. Dortch, dated July 12, 2004; Letter from David Lawson to Ms. Marlene H. Dortch, dated May 11, 2004; Letter from Charles S. Abell, Office of the Under Secretary of Defense to FCC Chairman Michael Powell, dated July 23, 2004 ("There is special concern for military personnel who are supporting of Operation Iraqi Freedom and Operation Enduring Freedom. Many military families, already enduring the stress of separation, are struggling under the financial weight of the cost of telephone calls."); Letter from William F. Hanf, Greater Columbus Ohio Counsel, Navy League of the U.S. to FCC Commissioners, dated July 15, 2004 ("The

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EPPC services are sold through military exchanges, discount stores and similar venues, which permits groups traditionally excluded from the telecommunications network to gain low-cost access to telephone services. AT&T's EPPC services are used extensively by our nation's military deployed in Iraq and around the globe; they are also used disproportionately by low-income Americans, seniors, minorities, and recent immigrants. It is indisputable that these low-cost EPPC offerings serve core universal service goals for our men and women in uniform, recent immigrants and the poorest of the poor. Indeed, enhanced prepaid cards are often the only practical way for members of these underserved groups to make telephone calls. Denying AT&T's petition for declaratory ruling would result in a dramatic increase in the cost of providing these innovative services, and thus would destroy the unique universal service benefits EPPC's current regulatory status makes possible – including the important benefits to the soldiers serving our country in Iraq and their families.

In their recent *ex parte* letters, however, the ILECs continue their relentless campaigns to place their own narrow interest in maximizing monopoly access revenues above the public interest in fair, affordable rates. The ILECs have no affirmative argument for why the Commission should further bloat ILEC profits at the expense of our soldiers and other groups protected by universal service; instead, they resort to inflammatory rhetoric and wild charges against AT&T. The ILECs repeatedly misrepresent the facts, and their legal claims are utterly baseless.

Through competitively-bid contracts with the Military Exchanges, AT&T is an official provider of personal communication services for all five branches of the U.S. military at more than 550 military bases and camps worldwide and on 200 U.S. Navy ships afloat. In the Middle East, for example, AT&T has built 61 dedicated AT&T Call Centers in the war zones of Iraq, Afghanistan and Kuwait with additional centers currently in the process of being deployed at the request of military command requirements as dictated to the Military Exchanges. In Iraq, AT&T supplements its Call Centers with more than 550 mobile satellite handsets that move with units in the field. And in Kuwait, AT&T provides nine Internet Cafes to make it easier for service members to communicate with their loved ones.

AT&T's Call Center service is supplemental to the "Morale Calls" that are offered over the official military phone service lines of the Defense Switched Network (DSN). Due to the high number of troops deployed and the desire of these soldiers to communicate with their loved ones at home, the frequency and duration of personal calls

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Navy League believes you should help make telecommunications alternatives more affordable and accessible to them, not less so. It is simply unfair to send young men and women on active duty overseas, or to a base far from home, and then say, Oh, by the way, now we are going to make it more expensive to call your family.")

over the DSN generally are limited. AT&T Call Centers thus serve an important function to handle the calls that cannot be accommodated by the official “morale calling” over the DSN. And AT&T maintains a special website, “AT&T Military Headquarters,” (www.att.com/mil) that is designed to help military service members and their families understand their options for keeping in touch.

Low-cost enhanced prepaid calling cards are an indispensable element of the infrastructure that ensures that troops and their loved ones have an affordable option for staying connected. AT&T has worked with the Military Exchanges to develop the Military Exchange 550-unit AT&T Global PrePaid Card. AT&T’s EPPC cards are sold both overseas and at domestic Military Exchanges. More than 85% of calls (based on minutes of use) placed from these AT&T Call Centers are completed using EPPC.

Under the competitively-bid Military Exchange contract awarded in June 2000, AT&T is responsible for *all costs* associated with providing prepaid card service to service men and women, including the expense of setting up service and the costs associated with providing it amidst the dangers of combat and the challenges of the harsh Middle East climate. AT&T’s overseas support for the military under Operation Enduring Freedom in Iraq, Afghanistan and Kuwait, required AT&T to build at times and places of the military’s choosing a telephone network including satellite links, switches, and Call Centers, all capable of being moved with changing deployment. AT&T receives revenue only through payment for the calls; neither the U.S. government nor any other organization subsidizes AT&T’s service. AT&T has been able to maintain very affordable rates for the Global AT&T Prepaid Card even in the face of these extraordinary costs only because of the interstate information service nature of EPPC.

BellSouth and Sprint nonetheless claim that our service men and women would not be forced to pay more for prepaid card calls if the Commission directed EPPC providers to pay exorbitant intrastate access charges to the ILECs. According to BellSouth and Sprint, intrastate access charges are irrelevant to military calls from and to overseas service men and women. BellSouth Letter at 5; Sprint Letter at 2. That is patently false. Due to the inherently nomadic nature of prepaid cards – cards purchased at military exchanges or discount stores can be transported and used anywhere at any time to call anyone – AT&T’s EPPC service is (and must be) priced on a *global* basis that reflects the possibility that cards purchased by members of the armed forces and their families will be, and frequently are, used to make intrastate calls. As a result, *any* increased cost in providing this service would necessarily require a price increase for cards sold in the U.S. and abroad. For the same reason, BellSouth’s and Sprint’s irresponsible assertions – made without a shred of evidence – that AT&T is simply pocketing access and USF savings in recognition of the enhanced interstate nature of EPPC services are false. As evidenced by the low calling card rates themselves, consumers are enjoying the benefit of these savings.

Sprint complains that AT&T has refused to allow military personnel to use free calling cards in Iraq and elsewhere that Sprint had distributed to our troops overseas.³ Sprint Letter at 2. That too is false. *Any* carrier's calling card can be used to initiate a phone call placed via the official military network, the DSN. Sprint cards cannot be used only at AT&T Call Centers, which are directly linked to the AT&T network and do not offer the capability to use other providers' cards.

SBC's filing is, to borrow a word from that filing, the most "despicable." While professing "sympath[y] to the needs of our armed forces and their families," SBC presses for full revocation of the substantial benefits EPPC provides to military personnel and their families, and redirection of those benefits to SBC's coffers. To distract attention from this ploy, SBC irresponsibly suggests that AT&T is providing EPPC to the military under false pretenses, and thus it urges "DOD to take a stand" and either hold AT&T to the terms of its procurement contract or launch an investigation into whether AT&T's representations or performance under that contract violate federal law. SBC Letter at 2; *see also* BellSouth Letter at 5. These charges are preposterous. AT&T was and is fully justified in treating EPPC as an interstate information service. Therefore, the suggestion that there should be some investigation of AT&T in connection with its provision of EPPC to the military is ridiculous. It is SBC's motives and actions that the DOD and military personnel and their families should question, not AT&T's.

Finally, BellSouth suggests that the ILECs' interest in fatter monopoly profits can be reconciled with the public's interest in affordable service to men and women serving in the armed forces and their families by a "military carve-out" that would "exempt" cards sold to the military from the higher access and USF fees that BellSouth would have the Commission apply to all other EPPC calls. BellSouth Letter at 5. That approach is untenable. First, apart from comprehensive intercarrier compensation reform pursuant to section 251(b)(5) that would displace *all* intrastate access charges, it is difficult to fathom what authority the Commission could rely upon to waive the

³ AT&T commends Sprint's decision to donate calling cards to troops. For years AT&T has donated thousands of cards through non-profit organizations to help troops overseas call their loved ones back home. Through the USO (United Service Organizations, Inc.) alone, AT&T has donated prepaid phone cards worth nearly \$6.1 million since January 2003. Since the beginning of Operation Enduring Freedom and then Operation Iraqi Freedom, AT&T has also donated its prepaid phone cards with a face value of more than 25 million minutes to a number of military and civic organizations – including new nonprofit organizations such as Operation Gratitude – that have organized to assemble and deliver care packages to troops in harm's way. Most recently, AT&T teamed with the USO to give convalescing soldiers at Walter Reed Medical Hospital the ability to use donated AT&T prepaid calling cards to call friends and loved ones around the country.

imposition of *intrastate* access charges.⁴ Moreover, as explained above, *any* imposition of intrastate access charges on AT&T's EPPC services will affect the entire cost structure of EPPC, because AT&T's EPPC services for the military are priced on a global basis. If the Commission allows ILECs to impose exorbitant intrastate access charges on some EPPC calls (notwithstanding the interstate communications involved in those calls), there is no escaping the fact that the cost to provide EPPC services sold through military exchanges will increase significantly. As is typical in such contracts, the AT&T agreement with the military contains a change of law provision that allows for price adjustments in response to regulatory changes.

Moreover, the Commission could not rationally waive federal USF contributions for EPPC provided to the military without also waiving such contributions for other groups protected by universal service. As noted above, low-income households, African American and Hispanic households, recent immigrants, students, senior citizens, and retirees on fixed incomes also depend on cost-effective prepaid card services to meet their communications needs. The statute makes clear that these groups are at the core of the Commission's universal service responsibilities: Traditional universal service obligations under 47 U.S.C. § 151⁵ require the FCC to make the telecommunications network "available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex," and the 1996 Act requires universal service policies to be based on the principle that services are available at rates that are "affordable." 47 U.S.C. § 254(b)(1), (i). The extensive *ex partes* that are now on file before the FCC and the more than one million calls made to the White House in support of maintaining the current status of EPPC confirm the critical importance of low-cost prepaid card services to these other end-users as well. It would thus be irrational and indefensible to grant a special universal service exception to keep EPPC services affordable for military end-users, but raise costs and thus limit access to the network to these non-military groups that are at the core of Congress's universal service concerns.

In short, the appropriate course for the Commission in this proceeding is to maintain the *status quo* and declare that EPPC services are interstate information services and hence that low-cost prepaid card calling will remain available not only to military personnel and their families, but to all Americans. SBC, BellSouth and Sprint did not object in 1994 when AT&T recognized an early enhanced prepaid card service as an enhanced service – in a Cost Allocation Manual filing that the Commission deemed accepted, *see* Letter from Amy L. Alvarez to Marlene H. Dortch, dated November 1, 2004 – and the industry has operated under that understanding for the better part of a decade. Consumers – and, in particular, the consumers to which

⁴ Nor would there be any principled theory under which the Commission could declare EPPC calls to the military to be jurisdictionally interstate while all other identically routed EPPC calls to other customers are intrastate.

⁵ *NARUC v. FCC*, 737 F.2d 1095, 1108 n.6 (D.C. Cir. 1984).

universal service concerns are primarily directed – have benefited enormously from this approach, and consumers will benefit enormously going forward from the maintenance of the *status quo*.

One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Respectfully submitted,

/s/

Judy Sello

cc: Christopher Libertelli
Matthew Brill
Daniel Gonzalez
Jessica Rosenworcel
Scott Bergmann
Jeffrey Carlisle
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